(19,327.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

No. 245.

AH SIN, PLAINTIFF IN ERROR,

vs.

GEORGE W. WITTMAN, AS CHIEF OF POLICE OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA.

IN ERROR TO THE SUPERIOR COURT IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

INDEX.

	Original.	Print.
Writ of error	a	1
Return to writ of error	1	3
Citation and service (copy)	2	3
Assignment of errors	4	4
Petition for writ of *habeas corpus*	7	6
Complaint	8	7
Ordinance No. 937	10	8
Order granting writ of *habeas corpus*	18	12
Writ of *habeas corpus*	19	13
Judgment	20	13
Bond on writ of error	21	14
Clerk's certificate	23	15

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., NOVEMBER 8, 1904.

a In the Supreme Court of the United States.

AH SIN, Plaintiff in Error,
vs.
GEORGE W. WITTMAN, as Chief of Police of the City and County of San Francisco, State of California, Defendant in Error.

Writ of Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the superior court in and for the city and county of San Francisco, State of California, and to the judge thereof, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a suit and plea in the superior court in and for the city and county of San Francisco, State of California, and before you, being the highest court of the said State in which a decision could be had in the said suit and entitled "In the matter of the petition of Ah Sin for the writ of *habeas corpus*," being case number 15198 in said superior court and wherein was drawn in question the validity of a certain authority and a certain municipal ordinance of the city and county of San Francisco, State of California, on the ground of their being repugnant to the Constitution, treaty and laws of the United States, and the decision of the said superior court was in favor of such, their validity; and wherein also was drawn in question the construction of a clause of the Constitution of the United States and of a treaty of the United States with the Empire of
b China, and the decision of the said superior court was against the title, right, privilege and exemption specially set up and claimed under such clause of the said Constitution, and under the said treaty with the Empire of China, a manifest error hath happened, to the great damage of the said Ah Sia, (a subject of the Emperor of China) as by his complaint appears, we being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the 7th day of June A. D. 1904, in the said Supreme Court of the United States, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Seal U. S. Circuit Court, Northern Dist. Cal.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 9th day of April in the year of our Lord one thousand nine hundred and four.

SOUTHARD HOFFMAN,
Clerk of the Circuit Court of the United States, Ninth Judicial Circuit, Northern District of California.

Allowed by—

WILLIAM P. LAWLOR,
Judge of the Superior Court.
FRANK H. KERRIGAN,
Presiding Judge of said Superior Court.

c *Certificate.*

It is hereby certified that Ah Sin the plaintiff in error, did lodge in the office of the clerk of the superior court in and for the city and county of San Francisco, State of California, on the 9th day of April A. D. 1904, a true copy of the foregoing writ of error, for the defendant in error.

[Seal Superior Court, City & County of San Francisco, Cal.]

JOHN J. GREIF,
Clerk of the Superior Court in and for the City and County of San Francisco, State of California,
By JOSEPH RIORDAN,
Deputy County Clerk and Ex-officio Deputy Clerk of the Superior Court.

d [Endorsed:] No. 15,198. Dep't 11. In the Supreme Court of the United States. Ah Sin, plaintiff in error, *vs.* George W. Wittman, as chief of police, etc., defendant in error. Writ of error and certificate of lodgment. Filed Apr. 9, 1904. John J. Greif, clerk, by Joseph Riordan, deputy clerk. George D. Collins, 21–22 Crocker bldg., San Francisco, Cal., attorney for plaintiff in error. R. 11–6–50.

1 In the Supreme Court of the United States of America.

AH SIN, Plaintiff in Error,
vs.
GEORGE W. WITTMAN, as Chief of Police of the City and County of San Francisco, State of California, Defendant in Error.

Transcript of Record.

Error to the superior court in and for the city and county of San Francisco, State of California.

Superior Court in and for the City and County of San Francisco, State of California, *ss:*

Return to Writ of Error.

The answer of the superior court in and for the city and county of San Francisco, State of California.

The record and proceedings of the plaint whereof mention is within made, with all things touching the same, we certify under the seal of our superior court in and for the city and county of San Francisco, State of California, within mentioned, at the day and place within contained, as we are commanded by the annexed writ of error.

By the court,

[Seal Superior Court, City & County of San Francisco, Cal.]

JOHN J. GREIF,
Clerk of the Superior Court in and for the City and County of San Francisco, State of California,
By THOMAS L. DORAN,
Deputy Clerk.

2 In the Supreme Court of the United States.

AH SIN, Plaintiff in Error,
vs.
GEORGE W. WITTMAN, as Chief of Police of the City and County of San Francisco, State of California, Defendant in Error.

Citation on Writ of Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to George W. Wittman, as chief of police of the city and county of San Francisco, State of California, Greeting:

You are hereby cited and admonished to appear at a Supreme Court of the United States to be holden at the city of Washington,

in the District of Columbia, on the 7th day of June A. D. 1904, pursuant to a writ of error lodged in the clerk's office of the superior court in and for the city and county of San Francisco, State of California, wherein Ah Sin is the plaintiff in error, and you are the defendant in error, to show cause if any there be, why the final judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable William P. Lawlor, judge of the superior court in and for the city and county of San Francisco, State of California, this 9th day of April A. D. 1904, at the city and
3 county of San Francisco, State of California, and the Honorable Frank H. Kerrigan, presiding judge of the said superior court.

(Signed) WM. P. LAWLOR,
Judge of the Superior Court in and for the City and County of San Francisco, State of California.

(Signed) FRANK H. KERRIGAN,
Presiding Judge of said Superior Court.

This is to certify that on the 9th day of April A. D. 1904, the foregoing citation was served upon the undersigned by delivery of a true copy thereof to him, and admission of said service is hereby made.

(Signed) LEWIS F. BYINGTON,
District Attorney of the City and County of San Francisco, Attorney for the Defendant in Error, George W. Wittman, as Chief of Police of said City and County of San Francisco.

Endorsed: Filed April 9th, 1904. John J. Greif, clerk. By Joseph Riordan, deputy clerk.

4 In the Superior Court in and for the City and County of San Francisco, State of California.

AH SIN, Plaintiff in Error,
vs.
GEORGE W. WITTMAN, as Chief of Police of the City and County of San Francisco, State of California, Defendant in Error.

Assignment of Errors.

Of October term, in the year of our Lord one thousand nine hundred and three.

Afterwards to wit: on the 9th day of April A. D. 1904, in the same term, before the justices of the Supreme Court of the United States, comes the said Ah Sin, by George D. Collins, his counsel, and

says that in the record and proceedings in the matter of the petition of Ah Sin for a writ of *habeas corpus* No. 15198 in the superior court in and for the city and county of San Francisco, State of California, there is manifest error in this, to wit:

1. That the said superior court committed manifest error in said cause in deciding therein that the said plaintiff in error, the said Ah Sin is not deprived of his liberty without due process of law, in violation of section 1 of the fourteenth amendment of the Constitution of the United States.

2. That the said superior court committed manifest error
5 in said cause in deciding therein that the said plaintiff in error is not denied the equal protection of the laws of the State of California, in violation of section 1 of the fourteenth amendment of the Constitution of the United States.

3. That the said superior court committed manifest error in the said cause in deciding therein that the municipal ordinance of the city and county of San Francisco, set forth in the petition for the writ of *habeas corpus* herein, is not in conflict with section 1 of the fourteenth amendment of the Constitution of the United States, and does not deprive the said plaintiff in error of his liberty without due process of law.

4. That the said superior court committed manifest error in the said cause in deciding therein that the said municipal ordinance of the said city and county of San Francisco does not deprive the said plaintiff in error of the equal protection of the laws.

5. That the said superior court committed manifest error in the said cause in deciding therein that the said plaintiff in error is not imprisoned in violation of section 1 of the fourteenth amendment of the Constitution of the United States.

6. That the said superior court committed manifest error in the said cause in deciding therein that the said municipal ordinance is not void because unauthorized by the police power of the State.

7. That the said superior court committed manifest error in the said cause in deciding therein that the said municipal ordinance is not in contravention of the treaty existing between the United States and the Empire of China.

8. That the said superior court committed manifest error in the said cause in deciding therein that the said plaintiff in error is not imprisoned in violation of the treaty now existing between
6 the United States and the Empire of China.

9. That the said judgment of the said superior court in the said cause operates to deprive the said plaintiff in error of his liberty without due process of law, in violation of the Constitution of the United States, to wit: section 1 of the fourteenth amendment.

10. That the said judgment of the said superior court in said cause operates to deny to the said plaintiff in error the equal protection of the laws, in violation of the Constitution of the United States, to wit: section 1 of the fourteenth amendment.

Whereas by the law of the land, said judgment of the superior

court in and for the city and county of San Francisco, State of California, ought to have been given for the said Ah Sin, plaintiff in error, and against the said George W. Wittman, chief of police of the city and county of San Francisco, State of California, defendant in error; and the said plaintiff in error, the said Ah Sin, prays that the said judgment of the superior court in and for the city and county of San Francisco, State of California, be reversed, annulled, and altogether held for naught, and that he be restored to all things which he hath lost by occasion of the said judgment.

(Signed) GEORGE D. COLLINS,
Attorney for Ah Sin, Plaintiff in Error.

Endorsed: Filed April 9, 1904. John J. Greif, clerk. By Joseph Riordan, deputy clerk.

7 In the Superior Court in and for the City and County of San Francisco, State of California.

In the Matter of the Petition of AH SIN for the Writ of *Habeas Corpus.*

Petition.

To the honorable the superior court in and for the city and county of San Francisco, State of California:

Comes now Ah Sin, a subject of the Emperor of China, and complains to your honorable court that he is unlawfully imprisoned and restrained of his liberty by George W. Wittman, Esq., chief of police of the city and county of San Francisco, State of California, who is a citizen of the United States and a resident and inhabitant of the northern district of California. That said imprisonment is in the hall of justice in the said city and county of San Francisco and is unlawful in that the same is in violation of section one of the fourteenth amendment of the Constitution of the United States in this:

That said imprisonment is upon and in obedience to a certain municipal ordinance of the said city and county of San Francisco, a copy of which ordinance is hereinafter set forth. That the said ordinance is void and in conflict with the Constitution of the United States in that it operates to deprive your petitioner of his liberty without due process of law and also denies to him the equal protection of the laws, as is hereinafter more fully specified.

Your petitioner avers that the said imprisonment is upon
8 a certain complaint filed in the police court of the said city and county of San Francisco; that the following is a true copy of said complaint viz:

"In the Police Court of the City and County of San Francisco, State of California, Department No. 4.

"THE PEOPLE OF THE STATE OF CALIFORNIA
"vs.
"AH SIN.

"STATE OF CALIFORNIA,
"*City and County of San Francisco,* } ss:

"Personally appears before me this 30th day of January A. D. "1904, J. L. Farrell who on oath makes complaint, and deposes and "says, that on the 25th day of January A. D. 1904 in the city and "county of San Francisco, State of California, the crime of misde- "meanor, to wit: was committed by Ah Sin (whose real name is "unknown to this complainant) who then and there within the "limits of the city and county of San Francisco, did willfully and "unlawfully visit and resort to a certain barred and barricaded "house and room at No. 820 Washington street, said house and "room being built and protected in a manner to make it difficult of "access and ingress to police officers; dice, cards, dominoes, fan tan, "tables and lay outs, and other gambling implements being then "and there exhibited and exposed to view and more than three "persons being then present in said barred and barricaded house and "room. Thereby violating the provisions of section- 2 and
9 "3 of order No. 937 bill 944 of the board of supervisors of "said city and county, contrary to the form, force and effect "of the statute in such cases made and provided, and against the "peace and dignity of the people of the State of California. And "this complainant, upon oath, accuses the said Ah Sin (whose real "name is unknown to this complainant), of having committed the "said crime, and this complainant further alleges and deposes that "the said accused was then and there arrested therefor in the act- "ual commission of said offence, and prays that the said accused "may be brought before a magistrate and dealt with according to "law.

"(Signed) JOHN L. FARRELL,
"*Police Officer.*

"Subscribed and sworn to before me this 30th day of January "A. D. 1904.

"(Signed) GEORGE H. CABANISS,
"*Judge of the Police Court of the City and*
"*County of San Francisco.*

"(Endorsed:) Filed in open court Jan. 30, 1904, John J. Greif, "clerk, by Bernard Conlon, deputy clerk."

That after a trial had by the said police court upon the said complaint, and on proof uncontradicted and unimpeached that the premises therein described, to wit: said house and room, were barred and barricaded and protected only against such police officers as had no right to enter said premises, and who were mere trespassers, your petitioner was adjudged guilty by said police court of being a visitor to said premises, to wit: said house or room, although he visited the same innocently and for a lawful purpose, and without any knowledge that the same were barred or barricaded or built or protected in a manner to make it difficult of access or ingress to police officers, and without any knowledge that there *was* exhibited or exposed to view on said premises, any cards, dice, dominoes, fan tan table, or layout, or any gambling implements whatsoever. That the following is a true copy of said ordinance, viz:

"*Bill No.* 944.

"Ordinance No. 937.

"Prohibiting the exposure of gambling tables or implements in a "room barred or barricaded or protected in any manner to make "it difficult of access or ingress to police officers, when three or "more persons are present; or the visiting of a room barred and barricaded or protected in any manner to make it difficult of access "or ingress to police, in which gambling tables or implements "are exhibited or exposed, when three or more persons are "present.

"Be it ordained by the people of the city and county of San "Francisco as follows:

"SECTION 1. It shall be unlawful for any person within the limits "of the city and county of San Francisco to exhibit or expose to "view in any barred or barricaded house or room, or in any place "built or protected in a manner to make it difficult of access or "ingress to police officers when three or more persons are present, "any cards, dice, dominoes, fan-tan table or layout, or any part of "such layout, or any gambling implements whatsoever.

"SECTION 2. It shall be unlawful for any person within the limits "of the city and county of San Francisco to visit or resort to any "such barred or barricaded house or room or other place built or "protected in a manner to make it difficult of access or ingress to "police officers, where any cards, dice, dominoes, fan-tan table or "layout, or any part of such layout, or any gambling implements "whatsoever are exhibited or exposed to view when three or more "persons are present.

"SECTION 3. Every person who shall violate any of the provisions of this ordinance shall be deemed guilty of misdemeanor, and upon conviction thereof shall be punished by a fine "not to exceed five hundred ($500.00) dollars, or by imprisonment

"in the county jail for not more than six (6) months, or by both "such fine and imprisonment.

"SECTION 4. This ordinance shall take effect and be in force on "and after its passage."

1. Your petitioner further avers that said ordinance and the provisions thereof are enforced and executed by the said municipality of San Francisco, and said State of California, solely and exclusively against persons of the Chinese race and not otherwise; and in that respect the said Chinese persons are thereby denied the equal protection of the laws, the said State of California thereby violating section one of the fourteenth amendment of the Constitution of the United States. Your petitioner avers, that said ordinance unjustly and arbitrarily discriminates in favor of certain visitors and also in favor of certain persons resorting to the house, room or place referred to in said ordinance as well as in favor of such persons and visitors as resort to or visit such house or room or place when not barred or barricaded or protected in a manner to make the same difficult of access or ingress to police officers, and is in that respect also in violation of the fourteenth amendment of the Constitution of the United States in thereby denying to your petitioner the equal protection of the laws. Your petitioner avers that he has applied to both the United States circuit and district court in and for the northern district of California, for a writ of *habeas corpus* and the said courts denied the writ, upon the sole and only ground that your
12 petitioner's remedy is by petition for the writ of *habeas corpus* to the State court of competent jurisdiction and in the event that relief is there denied, by writ of error from the Supreme Court of the United States; and in support of said proposition the following authorities are cited by said circuit court, viz:

Ex parte Royall 117 U. S. 241;
Ex parte Fonda, 117 U. S. 516;
In re Frederick, 149 U. S. 70;
Pepke *vs.* Cronan, 155 U. S. 100;
Bergeman *vs.* Backer, 157 U. S. 655;
Whitten *vs.* Tomlinson, 160 U. S. 231;
Baker *vs.* Grice, 169 U. S. 284;
Markuson *vs.* Boucher, 175 U. S. 184.

And the following authorities are cited by the said district court, viz:

Pepke *vs.* Cronan, 155 U. S. 100;
Markuson *vs.*.Boucher, 175 U. S. 184.

Your petitioner further avers that upon the hearing and trial of his said case upon said complaint on file in the said police court he made his motion in and before the said police court that the said criminal action and said criminal charge be dismissed upon the grounds that said municipal ordinance is null and void and in con-

flict with section one of the fourteenth amendment of the Constitution of the United States in that by said ordinance and also by its enforcement, your petitioner is deprived of his liberty without due process of law and in the same particulars as in this petition set forth; and is by said ordinance and its enforcement, denied the equal protection of the laws, and in the same particulars as
13 in this petition alleged. That after argument, the said motion and objections of your petitioner were overruled by the said police court; to which ruling and decision, your petitioner then and there duly excepted. That thereupon, the said police court adjudged your petitioner guilty of violating the said ordinance, as is hereinbefore alleged.

2. Your petitioner avers that by the provisions of the said ordinance he is deprived of his liberty to visit or resort to the premises described in the said complaint, or to any place or premises in the city and county of San Francisco that may be barred or barricaded or protected against police officers who have no right to enter such premises, merely because said premises are so barred or barricaded or protected and there are exhibited or exposed in the presence of three or more persons *other than your petitioner*, the articles specified in said ordinance, although your petitioner had nothing whatever to do with the barring or barricading or protecting of the premises or the exhibiting or exposing of any of the said articles, nor any knowledge when he visited the premises that they were barred or barricaded or protected against police officers nor that any of said articles was exhibited upon the premises or in the presence of three or more persons. That your petitioner is not charged with illegal or any gambling nor does said ordinance provide for the suppression or punishment of illegal or any other kind of gambling, nor does said ordinance prohibit the visiting of a gambling house. That there is an ordinance of the said city and county of San Francisco known and designated as sub-division 3 of section 33 of order No. 1587, and which is as follows, viz:

"It shall be unlawful for any person to keep or maintain, or visit,
"or in any manner contribute to the support of any house or
14 "place for the purpose of gambling or knowingly let or under-
"let or transfer the possession of any house or premises for "use by any person for said purpose. Every person who shall vio- "late any of the provisions of sub-divisions of this section shall be "deemed guilty of a misdemeanor and shall be punished by a fine "of not more than $500 or imprisonment not more than six months
"or by both such fine or imprisonment."

That your petitioner is not charged with violating nor convicted of violating said last mentioned ordinance; and he quotes said ordinance for the purpose of showing to your honorable court that he is not accused or convicted of visiting or resorting to either a gambling house or a house or place "for the purpose of gambling." Your petitioner further avers that the said ordinance to the extent that the same makes punishable the mere act of *visiting* a house or

room barred or barricaded, built or protected "in a manner to make "it difficult of access or ingress to police officers, where any cards, "dice, dominoes, fan-tan table or layout, or any part of such layout, "or any gambling implements whatsoever are exhibited or exposed "to view when three or more persons are present," is unconstitutional in that *it has no legitimate nor any relation to nor connection with the regulation or the prohibition or the suppression or the punishment of gambling.* and is not therefore within the authority of the State nor of the municipality of San Francisco in the lawful exercise of the police power; that it is an entirely arbitrary exertion of the powers of government and a violation of the fourteenth amendment of the Constitution of the United States, because not susceptible of being upheld as a lawful application of the police power of the State. Your
15 petitioner avers that the State has no power to make criminal, an innocent visit to a house or room where there is no gambling and where the visitor has nothing whatever to do with the ownership or possession or exhibition of any of the articles specified by the ordinance in question. That it is the constitutional right of your petitioner in the enjoyment of his liberty to visit any house or room where he can lawfully obtain admission and where he goes for a lawful purpose, and while there commits no unlawful act; that even if it can be made criminal to bar or barricade or protect the house or room against all police officers, and exhibit therein in the presence of three or more persons any of the articles specified in the said ordinance, no such ordinance is a valid or constitutional exercise or exertion of the police power of the State if it makes criminal *the mere act of innocently visiting such a house or room where the visitor had no knowledge or notice of and nothing whatever to do with the barring or barricading of the premises or the proscribed articles.* Your petitioner avers that the said ordinance is also void for the reason that it embraces more than one subject, in violation of section 11 of art. 2 of the charter of the city and county of San Francisco, and the subject of the ordinance is not expressed in its title. Your petitioner respectfully represents that any imprisonment under a void municipal ordinance is a deprivation of your petitioner's liberty, without due process of law, in violation of the fourteenth amendment of the Constitution of the United States and properly justiciable upon the writ of *habeas corpus.* Your petitioner avers that by said ordinance he is deprived of his liberty without due process of law in that he is prohibited thereby from visiting innocently
16 and for a lawful purpose, the house or room or place mentioned in said ordinance.

Your petitioner alleges that at all the times in this petition referred to, he was, ever since has been, and now is a subject of the Emperor of China, and was at all said times and ever since has been and now is within the jurisdiction of the State of California. That said ordinance is not only in conflict with section one of the fourteenth amendment of the Constitution of the United States but is

also in contravention of the treaty now existing between the United States and the Empire of China.

Wherefore your petitioner prays that he be granted the writ of *habeas corpus;* that the same be directed to George W. Wittman, Esq., the chief of police of the said city and county of San Francisco and returnable before your honorable court, at a time and place designated; that said imprisonment be adjudged unlawful and in violation of the fourteenth amendment of the Constitution of the United States, and that your petitioner be discharged therefrom and restored to his liberty; that pending the determination of this case, your petitioner be admitted to bail.

(Signed) AH SIN, *Petitioner.*

(Signed) GEORGE D. COLLINS,
Attorney for Petitioner.

17 STATE OF CALIFORNIA, } ss:
City and County of San Francisco, }

Ah Sin being duly sworn deposes and says that he is the petitioner herein; that he has heard read the foregoing petition and knows the contents thereof; that the same is true of his own knowledge except as to the matters therein stated upon information or belief; that as to those matters, he believes it to be true.

(Signed) AH SIN.

Subscribed and sworn to before me this 21st day of March, A. D. 1904.

[SEAL.] (Signed) JULIUS CALMANN,
Notary Public in and for the City and County of San Francisco, State of California.

18 In the Superior Court in and for the City and County of San Francisco, State of California.

In the Matter of the Petition of AH SIN for the Writ of *Habeas Corpus.*

Order Granting Writ of Habeas Corpus.

Upon the foregoing petition it is ordered that the writ of *habeas corpus* issue as therein prayed for and returnable before department No. 11 of the said superior court at the court room thereof in the said city and county of San Francisco, on the 22nd day of March, A. D. 1904, at ten o'clock a. m. on that day. It is ordered that in the meantime and until the final determination of said proceedings on

habeas corpus, the petitioner be and he is hereby admitted to bail in the sum of ten ($10.00) dollars.

Done in open court this 21st day of March A. D. 1904.

(Signed) FRANK H. KERRIGAN,
Presiding Judge of said Superior Court.

Endorsed: Filed Mar. 21, 1904. John J. Greif, clerk. By Thos. L. Doran, deputy clerk.

19 *Writ of Habeas Corpus.*

Superior Court, City and County of San Francisco, State of California, Department No. 11.

The people of the State of California to George W. Wittman, chief of police of San Francisco, Greeting:

We command you that you have the body of Ah Sin by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name said Ah Sin shall be called, or charged, before department number eleven of our said superior court, at the court-room thereof in the hall of justice in the city and county of San Francisco, State of California, on the 22d day of March A. D. 1904, at ten o'clock in the forenoon of that day, to do and receive what shall then and there be said concerning the said Ah Sin, and have you then and there this writ. In the meantime the said Ah Sin is admitted to bail in the sum of ten dollars.

Witness: Hon. Frank H. Kerrigan, presiding judge of our said superior court, this 21st day of March 1904.

[Seal of said Superior Court.]

(Signed) JOHN J. GRIEF, *Clerk*,
(Signed) By THOMAS L. DORAN,
Deputy Clerk.

Endorsed: Filed in open court March 22, 1904. John J. Grief, clerk, by J. B. Martin, deputy clerk.

20 *Judgment and Order Dismissing Writ and Remanding Prisoner.*

In the Superior Court in and for the City and County of San Francisco, State of California.

Ex Parte AH SIN on *Habeas Corpus*. 15198.

This matter came on regularly for hearing this 28th day of March A. D. 1904, the petitioner being represented by his counsel and the

people being represented by the district attorney; whereupon it was stipulated and agreed in open court by counsel for the people and by counsel for the petitioner that the facts are, as set forth in the petition on file herein for the writ of *habeas corpus*. The cause was then argued by counsel on the points stated in the said petition and was thereupon submitted to the court for its decision and judgment; and the court being fully advised in the matter does now upon the authority of the matter of Ah Cheung 136 Cal. 678, dismiss the writ of *habeas corpus* heretofore issued herein and remand the petitioner to the custody of the chief of police of the city and county of San Francisco. Ordered accordingly. The petitioner reserved an exception to the judgment.

Done in open court this 28th day of March, A. D. 1904.

(Signed) WILLIAM P. LAWLOR,
Judge of said Superior Court.

Endorsed: Filed in open court, Mar. 29, 1904. John J. Greif, clerk. By J. B. Martin, deputy clerk.

21 In the Superior Court in and for the City and County of San Francisco, State of California.

AH SIN, Plaintiff in Error,
vs.
GEORGE W. WITTMAN, as Chief of Police of the City and County of San Francisco, State of California, Defendant in Error.

Bond on Writ of Error.

Know all men by these presents that we the undersigned residents of the city and county of San Francisco, State of California, are held and firmly bound unto George W. Wittman as chief of police of the city and county of San Francisco, State of California, in the penal sum of two hundred dollars to be paid to the said George W. Wittman, for the payment of which well and truly to be made we bind ourselves, our executors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 9th day of April in the year of our Lord one thousand nine hundred and four.

The condition of this obligation is such that whereas the said Ah Sin has sued out a writ of error from the Supreme Court of the United States to the superior court in and for the city and county of San Francisco, State of California, to reverse the judgment rendered by the said superior court in the cause there pending and entitled "In the matter of the petition of Ah Sin for the writ of *habeas corpus*";

Now therefore if the above named Ah Sin shall prosecute said

writ of error to effect and answer all damages and costs if he fail
22 to make good his plea, then this obligation to be void, otherwise to remain in full force and effect.

In witness whereof we have hereunto set our hands and seals this 9th day of April A. D. 1904.

(Signed) CHIN BOCK GUY. [SEAL.]
(Signed) CHIN KIM YOU. [SEAL.]

STATE OF CALIFORNIA, }
City and County of San Francisco, } ss:

Chin Bock Guy and Chin Kim You being severally duly sworn, each for himself deposes and says that he is a resident and householder within the city and county of San Francisco, State of California, and a resident of the said State. That he is one of the sureties mentioned in the foregoing undertaking; that he is worth the sum of two hundred dollars over and above all his just debts and liabilities exclusive of property exempt from execution.

(Signed) CHIN BOCK GUY.
(Signed) CHIN KIM YOU.

Subscribed and sworn to before me this 9th day of April A. D. 1904.

[SEAL.] (Signed) JULIUS CALMANN,
Notary Public in and for the City and County of San Francisco, State of California.

The foregoing bond is hereby approved.

(Signed) WM. P. LAWLOR,
Judge of said Superior Court.
(Signed) FRANK H. KERRIGAN,
Presiding Judge of said Superior Court.

Endorsed: Filed April 9, 1904. John J. Greif, clerk, by Joseph Riordan, deputy clerk.

23 *Clerk's Certificate to Transcript.*

STATE OF CALIFORNIA, }
City and County of San Francisco, } ss:

I, John J. Grief, clerk of the superior court in and for the city and county of San Francisco, State of California, do hereby certify that the foregoing twenty-two (22) pages, numbered from one to twenty-two, inclusive, are a true copy of the record, and of all proceedings in the cause mentioned in the annexed writ of error, and that the same constitute the return to said writ.

In witness whereof, I have set my hand and caused the seal of the superior court in and for the city and county of San Francisco, State of California, to be affixed this 30th day of April A. D. 1904.

[Seal Superior Court, City & County of San Francisco, Cal.]

JOHN J. GREIF,
Clerk of the Superior Court in and for the City and County of San Francisco, State of California,
By THOMAS L. DORAN,
Deputy Clerk.

I hereby stipulate that the foregoing transcript of record is correct, and constitutes the record upon the writ of error herein.

LEWIS F. BYINGTON,
District Attorney of the City and County of San Francisco, State of California, Attorney for Defendant in Error.

24 [Endorsed:] Supreme Court of the United States. Ah Sin, plaintiff in error *vs.* Geo. W. Wittman defendant in error. Transcript of record. George D. Collins, 21–22 Crocker bldg., San Francisco, Cal., attorney for plaintiff in error.

Endorsed on cover: File No. 19,327. California superior court, city & county of San Francisco. Term No. 245. Ah Sin, plaintiff in error, *vs.* George W. Wittman, as chief of police of the city and county of San Francisco, California. Filed May 7, 1904. File No. 19,327.